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ANNUAL MESSAGE

OF

THE EXECUTIVE,

TO THE

GENERAL ASSEMBLY OF MARYLAND.

DECEMBER SESSION, 1845.

ANNAPOLIS:
RILEY & DAVIS, PRINTERS.

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MESSAGE.

Gentlemen of the Senate,
and of the House of Delegates:

Since the organization of the State Government, it has been customary for the Executive to transmit, annually, to the Legislature, a Message, detailing the manner in which the Government had been conducted since the adjournment of the preceding Legislature, and recommending the adoption of such measures as in his opinion would best conserve the honor and promote the interest of the people. The time which I had set apart for the discharge of this duty has been occupied with domestic afflictions; and this Message will be consequently less concise than will be satisfactory to you, or desirable to myself.

Whilst I admit that in our country an enlighted public opinion is the surest criterion of *right,* I should be false to the station I occupy if I should (regardful of a misdirected popular excitement in any section of the State,) omit to recommend the continuance and adoption of such measures, as in my judgment will most surely redeem the public credit, and promote the welfare of our common constituency.

The financial condition of the State well merited the prominent position assigned to its consideration by my immediate predecessor in each of his Annual Messages to the Legislature. With an anxious desire on his part to arrest the "*downward tendency*" of the public credit, it was his painful duty, year after year, to announce to the Legislature the entire inadequacy of the existing laws, if fully executed, to meet the current demands upon the treasury; and to point out the fatal error in the past legislation of the State by which the Executive Branch of the government had been deprived of the power originally vested in it to execute the laws which had been passed. In his last Message he made known to the Legislature, as the effect of the combined causes above assigned, (the inadequacy of the tax laws, and the want of power in the Executive to enforce them,) that the arrears of interest had progressively increased from $859,656, on the 1st December, 1842, to $1,171,872 $\frac{7}{100}$ on the 1st December, 1843; and to $1,450,961 $\frac{7}{100}$ on the 1st December, 1844; and that in seven counties of the State the tax laws were not enforced.

I have, gentlemen, to discharge the more pleasing duty of informing you, that collectors of the State tax have been appointed.

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and that the direct tax is now being collected in every portion of the State, except in Calvert county, where the collector has been unable to obtain the assessment books from the tax commissioners.

I have still greater pleasure in announcing to you the fact that, during the past fiscal year, there has been received, and applied to the extinguishment of arrears of interest, a sum greater than the accruing interest for that period.

Although I have labored assiduously, and for the time successfully, to produce this desirable result, it is my duty to inform you, that this success cannot be attributed to any actual power with which the Executive is clothed, to enforce the due execution of the revenue laws of the State.

Two causes have prominently contributed to foster the indisposition manifested in some parts of the State, to pay the taxes heretofore imposed by the Legislature. First, the manifest and *proclaimed* inadequacy of those laws, if fully enforced, to pay the interest on the public debt; and secondly, the Executive annunciation of the want of authority to enforce them, followed by the actual non-observance of those laws in several counties of the State. The people of Maryland, always anxious to maintain the honor and credit of their State, were unable to appreciate the utility of a system of taxation admitted to be inadequate to that end; and the success, which has attended my efforts to give vitality to the system, is to be attributed to the energetic action of the last Legislature, by which the determination was evinced to provide *sufficient* means for the accomplishment of this desirable object.

The due execution of the laws is as essential as their enactment; and it will be a duty incumbent upon you, (which I cannot too urgently press upon your attention,) to clothe the Executive with such powers as will convince the people, that for the future, the revenue laws will be fully and impartially executed in every part of the State. Your immediate predecessors, I have no doubt, believed they had accomplished this object, by giving to the present Executive, as recommended by him, the power of appointing collectors irrespective of residence, in all cases where collectors had not, by the tenth of May in each year, duly qualified under appointment of the county authorities. The design of the Legislature was to clothe the Executive with the power to appoint collectors whenever the county authorities should neglect or refuse to discharge that duty; but the power, *as conferred*, unaccompanied with the power to compensate the persons appointed, was of course nugatory. The naked power to appoint was conferred upon the Executive, but the power *to pay* was still left with the county authorities; and as this power was only to be exercised by the Executive upon the contingency of the refusal of the county authorities to appoint, it is manifest that the same causes which would occasion the non-discharge of the duty to appoint, would more powerfully operate to prevent their paying the Executive appointees. I have no doubt that the omission to confer this power was an oversight upon the part of your predecessors, and I have no hesi-

tancy in expressing the opinion, that if the Executive should be clothed by you with the power to compensate (within the limits now prescribed to the county authorities,) the collectors hereafter to be appointed by him, that you will ensure the future appointment of qualified collectors throughout the State.

It is not, however, alone necessary that you should provide for the *certain* appointment of proper collectors of the State tax; it is equally essential that you should, with *equal certainty*, provide your collectors with the *power* to discharge their duty.

Under the existing law, the whole machinery (if I may so express myself,) of the revenue system of the State is under the control and management of county authorities, in most cases elected by the people of the counties, and wholly irresponsible to the State authorities. Although the assessment under the act of March, 1841, was made by State authority, and for State purposes, the custody of the assessment books is, under the law as it now stands, confided to these county authorities, and the *power to levy the State tax* is exclusively vested in them. The neglect or refusal of these local authorities to levy the State tax, or to give up to the State collectors the assessment books, would for the time effectually prevent the collection of the State dues, and would render the existing tax laws practically useless as a revenue system. I am aware that the existing law subjects to indictment the members of the tax courts, who refuse to discharge the duty imposed on them by the law; but experience has demonstrated the inadequacy of this remedy.

Commissioners of the tax have been elected by the people, who have refused to deliver the assessment books to the collector appointed by the Executive, and the grand jury of the county have refused to find an indictment against the delinquents.

I am also aware, that upon the hearing of a writ of mandamus, the courts of justice would order the delivery of the assessment books; but in the new position which Maryland is now about to assume, the delay which would be consequent upon such a proceeding would be destructive of its utility. It will, gentlemen, be your paramount duty to remedy the defects in the existing legislation which have been pointed out for your consideration. As the law now stands, the Executive arm is powerless to vindicate the supremacy of the law; and the enactments of the Legislature may be treated with contempt, and disregarded with impunity.

Formerly the levy or tax courts throughout the State were appointed by the State Executive. They were then responsible to the State authorities, and consequently respected and observed the laws of the State. Now in most of the counties these officers are elected by the people of the particular county, and having been thus converted from State into county officers, they have ceased to be responsible to the State authorities, and in fact are practically responsible solely to the people of the county by whom they are elected. To this error, in the past legislation of the State, is to be attributed the non-enforcement of the revenue laws; and the correction of this error by restoring to the State authorities the appointment of those officers

will, in my judgment, render certain the future enforcement of those laws.

The manifest tendency of this improvident legislation to destroy the efficiency of the government, which was forcibly adverted to by my immediate predecessor in his second Annual Message to the Legislature, furnishes another cogent reason for the restoration of these appointments to the State authorities, to whom they were originally and legitimately entrusted. To the great body of our constituents, it is altogether immaterial whether this or that individual is appointed to discharge the duties of this or any other office—they are solely interested in having honest, attentive and efficient officers. The people see and know, that under the new system the appointment of these officers is practically thrown into the hands of irresponsible county politicians, attached to the two great parties of the country, who often nominate the candidates for these offices, more in view of the *party* services of the individuals or their supposed local popularity, than in consideration of their fitness for the office ;, and I think experience has demonstrated that since this innovation, the persons selected have not been more honest or capable than those who were formerly appointed by the Executive. This unadvised legislation originated in the desire of those who advocated it, to promote the political ascendency of themselves or their party ; but in my judgment, politicians were never more mistaken, and the mistake is occasioned by the common error with politicians in placing an under estimate upon the intelligence of the people.

The people of Maryland entirely comprehend the political problem, and recognize as a political truism, that the transfer of the appointment of the officers charged with the execution of the laws from the State authorities to the people of the several counties, would practically destroy the State Government, and build upon its ruins separate and independent county governments, irresponsible alike to the State and to each other. Our constituents desire that the laws passed by *their* representatives should be fully and impartially administered, and will, I am satisfied, approve of no legislation which would deprive *their* government of the powers necessary for that purpose.

Having discharged my duty in bringing distinctly to your notice the inadequacy of the Executive authority to enforce the observance of the revenue laws, and in pointing out the utter inutility of all the laws which have been, or which may be passed unaccompanied with adequate power to enforce them, I submit the subject to your consideration, with entire confidence in your patriotism and judgment, and with the full conviction that you will promptly and efficiently remedy these defects in the legislation of your predecessors.

After providing for the future prompt and certain enforcement of the revenue laws, you will, in my judgment, disregard public opinion, and the well ascertained will of your constituents, if you should omit to fix a day upon which the State shall resume the payment of the accruing interest on the public debt, and from

which she shall continue to pay the interest as it becomes due. The honor of the State and the interest of her citizens imperatively demand of you efficient action upon this all important subject. I need not ask you, gentlemen, in coming to its consideration, to throw aside all views of party or individual political advantage, and to look solely to the honorof your State, and the welfare of your constituents; for I am persuaded that the political destruction of the individual or party is irrevocably sealed, that shall omit to propose, or shall oppose, the passage of such laws, as, in the opinion of the people, will be certainly adequate to redeem, and, for the future, preserve the credit of the State.

The annual interest on the public debt is $655,421.20; and there has been paid during the fiscal year ending on the 1st December, 1845, in liquidation of arrears of interest, the sum of $710,784.51. The gratifying result is consequently exhibited that the arrears of interest on the public debt (instead of increasing, as in previous years, at the rate of about three hundred thousand dollars per year,) have been actually diminished during the past fiscal year by the sum of $55,363 $\frac{51}{100}$. The arrears of interest, as shown by the report of the Treasurer to the last Legislature, amounted, on the 1st of December, 1844, to the sum of $1,433,154 $\frac{71}{100}$, and on the 1st of December, 1845, the entire interest due to the creditors of the State was $1,376,891.20. It is not, it cannot be expected, that you will provide for the *immediate* payment of this arrearage of interest; but some adjustment of this balance is essential as a preliminary to the resumption of payment by the State, as it would be manifestly unjust, and *therefore* inadmissible to provide for the future payment of the accruing interest, leaving unliquidated and unsatisfied the interest which is now due.

It is unnecessary to consider the various suggestions which have been made for the attainment of this object. To one, however, I will refer, for the purpose of expressing my conviction that its adoption would violate the faith of the State pledged to her *creditors* and to her *citizens*. The suggestion, to which I refer, is one which was mooted during the last session of the Legislature, "to stop the operation of the sinking fund, and appropriate its proceeds to the extinguishment of this balance."

The sinking fund commenced with the debt of the State. Each law which authorized a loan upon the public credit, *created* a fund which would redeem the sum borrowed at the expiration of the period of credit specified in the law. By this means the payment of the principal was secured to the public creditor, and the citizens protected against the possibility of perpetual taxation, or the ruinous consequences of a tax to pay off the principal of the debt.

The sinking fund on the 1st December, 1844, amounted to $1,276,306 $\frac{79}{100}$, and on the 1st of December, 1845, to $1,404,030, $\frac{88}{100}$. It is progressively increasing by the quarterly re-investment of the interest accruing on it; and its operation has demonstrated its adequacy to secure the citizen and creditor of the State by redeeming

the principal of the public debt within the periods limited in the appropriation laws.

The public creditor, with the *certain* assurance of the future prompt payment of the accruing interest, will, I am persuaded, be well satisfied to fund the arrearage of interest upon such terms as will comport with the ability of the State, and at *any* rate of interest you may deem *equitable* and just.

The entire debt of the State, bearing interest amounts to the sum of $11,986,784 $\frac{95}{100}$.

Under the operation of the law which authorizes the payment of of taxes in coupons or certificates of interest, the public creditor *in fact* receives the amount of his interest, *less* the discount at which the coupons or certificates are sold, and *less* the tax imposed on his stock. Coupons and certificates of interest are now selling, and have sold since the passage of the law, at an average of eighty. per cent.

The result is that the creditors of the State, holding the bonds or stocks of the State, bearing an interest of six per cent., amounting to the sum of $3,829,359 $\frac{14}{100}$, receive an interest of four and fifty-five hundredths per ct.—the creditors, holding the five per cent. bonds of the State, amounting to $7,557,425 $\frac{84}{100}$, receive an interest of three and three-quarter per cent.; those holding the bonds of the State, bearing an interest of four and a half per cent., amounting to $100,000, receive three and thirty-five hundredths per cent., and those creditors who hold the three per cent. bonds of the State, amounting to $500,000, receive two and fifteen hundredths per ct.. I have adverted to these facts for the purpose of showing that the *interest* of the public creditor would be eminently promoted by any liquidation of the arrearage of interest, by which *its payment* within some fixed and reasonable period would be ensured, and by which the future regular payment in money of the accruing interest, according to the contract of the State, would be undoubtedly secured.

If, after a thorough investigation of the subject, you should determine that the State *shall* resume payment on the first day of October next, it will be necessary to fund the interest inclusive of the quarter ending on the first of July, 1846.

In view of the anxiety which will exist on the part of the tax payers to avail themselves of the privilege of paying in Coupons or certificates of interest (a privilege which they are aware must be denied so soon as you decide to resume the payment of the current interest) I do not think the present arrearage of interest will be much increased. Suppose the arrearage of interest, on and including the interest of the first July 1846, would amount to the sum of $1,500,000; this funded at three per cent. would increase the current interest from that date by the sum of $45,000; and if you should decide to pay off the principal, thus funded, in twenty years, it will be necessary to provide annually the further sum of $75,000; which sums added to the current interest on the present funded

debt, would make the sum of $715,421 $\frac{1}{100}$ to be raised annually to meet the demands upon the treasury.

Gentlemen, I feel the responsibility of the position we mutually occupy. I believe that now is the *accepted time*, and that to you is accorded the distinguished privilege of redeeming the honor and credit of our State. There is not a citizen of the State who is worthy to be called her Son, who does not feel shame at the position she now occupies, and who will not hail with applause your *efficient action* to place her *now* and for the *future* in the position of *right* she should occupy. The people of Maryland were never in a more prosperous condition. Those of her citizens who are engaged in Agriculture have been blessed, through divine Providence, with abundant harvests; and the *increased* price which has been obtained for the grain crops of the State would alone equal the public debt. In evidence of the prosperity of those engaged in commerce and the mechanic arts it is only necessary to look to our commercial emporium (whose rapid strides towards commercial pre-eminence over her sister cities of the Union must gratify the pride of every Marylander) to witness an increase of wealth during the past few years equal to the quadruple of the debt of the State.

I propose, Gentlemen, in the further discharge of *my duty* to review the existing revenue laws, and recommend such legislation as will in my judgment, without inflicting unnecessary burthens upon the people, be adequate, if concurred in by you, to meet the future demands upon the treasury. The subject must I know, be uninteresting to many of you, from the detail necessarily incident to its consideration; but the superior importance of giving you full information upon *a subject* upon which your action will be of such vital consequence to the State, will satisfy you that I could not take any other than the course indicated without a departure from the path of duty and the sacrifice of *utility*, (the sole object of this communication) to your convenience.

The revenue laws are now scattered through many volumes of the laws of the State; they are in some respects inconsistent with each other, and certainly require amendment. I would, therefore, most respectfully suggest the propriety of digesting and embodying them in one enactment, that the officers and people of the State may distinctly understand the duties imposed on them.

The first of these laws to which I invite your attention is the "Income tax law," passed at December ses. 1841, ch. 325. In a large portion of the State the *assessment* under this law was not made, and in portions of the State where the assessments were made they were so partial in their character as to render the law exceedingly obnoxious to the people. The result is that this law during the past fiscal year was not enforced in the City of Baltimore, and but partially enforced even in the counties in which assessments had been made; and the revenue derived from it has not exceeded $1,000. I am aware that by the supplemental act of December Sess. 1843, chap.

307, the Executive is empowered to appoint assessors and collectors, where they had not been appointed by the local authorities; but as no power was conferred upon the Executive to compensate the persons appointed by him, I was unwilling to encounter the certain failure which must have attended any attempt on my part to execute its provisions.

And again; as even the successful exercise of this power by me would not remedy the defects in the assessments which have been made, I thought it would be better to submit the subject to your consideration, that you may authorize a *new assessment* of "Salaries and Incomes" throughout the State, and that the law may be equally and impartially executed.

The next revenue law to which I call your attention is the act of 1841, chapter 297, which imposes a specific tax on "Silver Plate and Watches." This law has I believe been enforced in no part of the State, and it cannot be carried properly into effect without an assessment. The assessors of the "Income tax" (if you should authorize their appointment,) can also make the required assessment of those articles; and the two laws when fully enforced will yield a revenue of $20,000.

The act of March session, 1841, chapter 23, "for the assessment and valuation of the property of the State and to lay a direct tax," will also require revision.

The assessment of the property of the State made under its provisions in 1841, which amounted to the sum of $196,763,847 $\frac{98}{100}$ has been subsequently reduced by the action of the appeal tax courts to $177,139,645 $\frac{23}{100}$ although the wealth of the State has within that period greatly increased. It is a question of grave importance which will demand your early consideration, whether a new assessment of the property of the State would not greatly augment the public revenue and at the same time render more equal the burthens of taxation. Any assessment which may be authorized (being for State purposes) should in my judgment be made under the supervision and appointment of the State authorities, as the only means by which the great desideratum—equality of taxation—can be attained.

By this act the stock of the State held by domestic holders is taxed, and that portion held by non-resident holders is exempt from taxation. An investigation of the subject convinced me that the greater portion of the stock designed to be taxed by this law had escaped taxation.

The attention of the commissioner of loans had not been drawn to the 3d section of the act of 1841, chapter 281, by which "he is directed to retain out of the interest accruing on the State stock the tax due on said stock;" and this tax upon the stock of the State was paid but in comparatively few instances. Great difficulty (as will be apparent to the legislature by an examination of this section of the act of 1841;) existed in discriminating the domestic from the foreign stock, and consequently ascertaining

which was liable, and which exempt from taxation. By the act of 1844, chapter 172, the stock or debt of the State held by non-residents was also subjected to taxation, and the treasurer was directed "to retain the tax out of the interest falling due on the 1st July in each year, and to authorize the commissioner of loans to draw only for the balance of interest after deducting the tax." It will be perceived that this law did not diminish the difficulty which existed in discriminating the domestic from the foreign stock. It was manifest that both the domestic and non-resident holder were taxed—the tax of the former to be retained by the commissioner of loans, and the tax of the latter to be retained by the treasurer. As the interest of July 1845, from which the latter tax was to be deducted, has not been paid, the treasurer has not as yet encountered the difficulty which has been suggested; but, as under another law, the coupons and certificates of interest including those due on the 1st of July 1845, were to be received by the commissioner of loans in payment of taxes, that officer has been obliged to meet the difficulties engendered by both laws.

By my direction the commissioner of loans has adopted as the rule of construction of the act of 1841, chapter 281 "to consider all stock and bonds as domestic which are not proved to be the property of non-residents;" and in reference to the act of 1844, chapter 172, "to consider all coupons and certificates of interest offered in payment of taxes as the property of domestic holders." In order to secure the payment of the arrears of tax due from the domestic holders of stock or bonds of the State, the commissioner of loans, with my approval, has determined to consider the entire tax on the domestic stock as in arrear until shown to have been paid; and to retain from the interest of July, 1842, (which has been paid by the treasurer at the loan office in liquidation of the interest of this quarter,) the tax thus found to be in arrear. By this means the commissioner of loans has received for arrears of taxes, due from the domestic stock and bondholders the sum of $2,563 $\frac{75}{100}$, and will hereafter be enabled to collect all which is due from that source.

By directing that the treasurer shall retain the tax on the domestic stock and pay over only the difference between the tax and interest, as is provided by the act of 1844 in reference to the stock of non-resident holders, you will remedy the difficulties which have been pointed out, and lessen the demands upon the treasury by the sum of $27,602 $\frac{60}{100}$, the amount of the tax upon the entire funded debt of the State.

The tax imposed by this law upon the stock of the Banks and other incorporated institutions of the State has been the occasion of continued litigation. The Banks of the city of Baltimore, under the impression that their several charters exempted them from taxation, refused to pay the tax; and a suit was instituted, during the term of my predecessor, to test the constitutionality of the tax imposed on them by this act; which resulted in the decision of the Supreme Court of the United States "that the Banks of the city

of Baltimore, chartered in 1821, were exempt from taxation during the *continuance* of the charters then granted, and that the other Banks of the city were legitimately taxed." Under the impression that this decision had settled the question of liability to taxation, I requested the Attorney General to call upon the several Banks and request their compliance with the law. The Banks, chartered in 1821, contending that their charters of 1821 did not expire until 1846, and the other Banks contending that, under the act of 1835, chapter 142, no other tax could be imposed on them than was, or could be imposed on the Banks chartered in 1821, still refused to pay the tax; and I immediately directed proceedings to be instituted to test the validity of their claim to exemption. This proceeding resulted in a decision by the Court of Appeals, "that the banks chartered in 1821 were liable to taxation from the 1*st of Jan.* 1846, and that the other Banks were liable for the tax from the *date of its imposition in* 1841." All the Banks of the city of Baltimore have acquiesced in this decision, except the Farmers' and Planters', and the Western Banks, which now refuse to pay upon the ground that the act of 1841, chapter 281, and 1843, chapter 289, which make it the duty of the "*Presidents* of the Banks and other incorporated institutions of the State to retain and pay the tax directly into the treasury," are unconstitutional. A proceeding has been instituted, and is now pending in the Court of Appeals, to test the validity of this objection; the decision of which *may* render further legislation necessary.

The revenue which will be derived from the direct tax during the coming year will be increased by the sum of $24,297 $\frac{72}{100}$, the tax upon the capital of the Banks which have not hitherto paid, including the unpaid tax of the two Banks before mentioned, which are still contesting their obligation to pay.

Upon investigation I found that *but one Bank* in the city of Baltimore, (the Merchants' Bank,) and but few of the other incorporated companies had paid the direct tax, since the passage of the act of 1843, chapter 289, which transferred the collection of this tax from the local collectors to the Presidents of the several corporate institutions. The treasurer at my instance addressed a circular to the Presidents of each of the incorporated companies, of whose locality he could obtain information, requiring them to pay into the treasury the tax due from the companies over which they presided; which has resulted in the payment by many of them of the entire tax due from their respective institutions, amounting to the sum of $14,388 $\frac{87}{100}$; and which will justify me in aplying for a mandamus against those who may continue delinquents, to enforce their observance of the law.

The treasurer will furnish you with a list of the corporations, and the capital of each, of whose locality and capital we could obtain information, distinguishing those which have from those which have not paid; from which you will see that the revenue which will be probably derived from this particular source du-

ring the coming year will amount to $15,000; exclusive of the tax on the Baltimore City Stock, and the Stocks of the Banks of the State.

Prior to the last June Term of the Court of Appeals, I requested the Attorney General to embrace in the tax cases, which were to be argued, all the questions which had arisen under the various tax laws, that they might be all settled by the decision of the highest judicial tribunal of the State; and I will furnish you, for your information and guidance, with the decision of the court upon the tax questions which were raised and decided.

The direct tax law specifies as one of the subjects of taxation "all Ships and other vessels owned by citizens of this State." From this source the State has hitherto derived no revenue; the owners of Ships and Vessels insisting that the tax imposed was in violation of that clause of the Constitution of the United States, which confers upon the General Government the power to regulate commerce. By reference to the decision of the Court of Appeals you will see that the constitutionality of this tax is sustained.

The registered and licensed tonnage belonging to the port of Baltimore on the 1st of October, 1845, amounted in value to $2,172,220, to which must be added the tonnage registered at the other ports of the State, the value of which I have not ascertained.

The revenue from the direct tax for the coming year will be consequently increased by the tax upon this description of property from 1841 to the present time, and will furnish a valuable item in your estimate of means to meet the demands upon the treasury. It will be necessary however for you to consider whether the assessment of this species of property has been fully made, and whether some legislation is not necessary to render the tax upon it fully available.

By the act of 1843, chapter 189, the collection of the direct tax upon the stock of the city of Baltimore was also taken from the city collector, and the register of the city was required to pay it into the treasury. This tax I also found had not been paid since the passage of that law; and with the view to such legal proceedings as might be necessary, I requested the Attorney General to call upon that officer to ascertain his determination in regard to the payment of this tax; he at once expressed his determination to comply with the law unless otherwise *officially* instructed by the City Authorities, by whom he was appointed; and I am pleased to inform you that this tax for the present year, amounting to the sum of $9,497 34, has been paid, leaving still due, the like sum for the tax of the past year, in reference to which you will make such provision, or give such instructions as to you may appear necessary and right.

As the direct tax must be looked to by you for the greater portion of the means to meet the demands upon the treasury I was impressed with the paramount importance of supply-

ing you with all the information necessary to the formation of a correct estimate of the probable revenue which will for the coming year be derived from that source; and I have been, I apprehend, more minute than will be acceptable to you; certainly more so than has been agreeable to myself.

I have prepared with some care, and will now submit for your consideration, a tabular estimate of the revenue which will have *accrued* from the *direct tax*, and which is, or may be made *collectable* during the current fiscal year; and I shall consider my labor most amply rewarded if by this means I shall furnish you with any assistance in forming a *correct estimate* of the revenue which for the current year will be *collected* from this source.

The direct tax of one quarter of one per cent upon $177,139,645 $\frac{2}{100}$, the present assessed value of the real and personal property,	$442,849 11
Due for arrears of tax for 1841, 1842, 1843, and 1844, about	554,829 60
For items of direct tax not included in the general assessment, and from which but little revenue has been hitherto derived—to wit :	
Tax upon the capital stock of the Banks of the City of Baltimore,	19,752 50
Tax upon the capital stock of other incorporated institutions,	15,000 00
Tax on Baltimore city stock for 1844,	9,497 34
Tax on Baltimore city stock for 1846,	9,497 34
Tax on the funded debt of the State,	27,602 60
Tax on ships and other vessels,	5,430 55
Estimated arrears of tax on ships, &c.,	5,000 00
Tax for 1844 and '45, due from the Farmers' and Planters', and Western Banks of Baltimore,	4,542 25
	$1,094,001 29

I need not say to you that the amount of revenue which will *accrue* by no means furnishes the test of the amount which will be *received*; and I have furnished you an estimate of the former only with the view that you may as *practical Statesmen* (looking to the experience of the past, and the additional means of collection which your legislation will afford,) form an estimate of the latter, which may approximate correctness.

Your predecessors when they assembled to discharge the duties which now devolve on you, were informed by his Excellency, Governor Thomas, that the liabilities of the State had increased during the fiscal year which had then ended, by the sum of $279,088 $\frac{54}{100}$; and it manifestly became their duty to arrest this progressive accumulation of the public debt.

In this position of things the important enquiry was submitted to their consideration, whether for the additional revenue required,

they should resort to *indirect taxation*, or *increase the direct tax* to the required amount. Their determination to raise by *indirect taxation, all* the additional revenue that might be required, which was in my judgment wise and just, has since undergone the ordeal of a public canvass, and has been sanctioned by the approval of the people. The *principle of indirect taxation*, and the policy of a resort to this source for a portion of the public revenue, (which recommends itself to approval, by the diminished expense of collection, by the increased certainty of payment, and by the *justice* of relieving the owners of visible and tangible property, upon whom, under pre-existing legislation the burthens of taxation had exclusively fallen,) may now be considered as settled by the exigency of public affairs, and by the sanction of a well ascertained public sentiment.

I now propose to call your attention very briefly to the legislation of the last session, for the purpose of considering the revenue which may be expected from that source, and of suggesting such amendments as experience and the decision of the Court of Appeals have shown to be required.

The act of the last session, chapter one hundred and eighty-four, "imposing a tax upon the commissions of Executors and Administrators" has not as yet gone into practical efficient operation. By this act Executors and Administrators are only required to pay the tax "*upon the passage of the account in which their commissions are allowed.*" Under the practice throughout the State, the commission is not allowed by the Orphans' Courts until the passage of the *final* account; and as Executors and Administrators are allowed twelve months to settle the estate, it is apparent that the revenue arising under this law will only accrue in each case as they pass their final accounts, or after the expiration of twelve months from the date of the letters of administration in each case.

The Orphans' Courts are also authorized to extend the time for the settlement of estates beyond the twelve months; and as Executors and Administrators have the entire estates of their Testators or Intestates, and *consequently their commissions* in their own hands they have no interest in expediting the adjustment of the commissions by the Orphans' Courts, and the revenue of the State will be probably delayed beyond the twelve months from the date of the letters in each case. It would be certainly desirable if this law could be so amended as to make the revenue contemplated by it, more immediately available to the treasury.

In my judgment the defect suggested may be removed, and this law rendered conspicuously available in sustaining the credit of the State, if you will so amend it, *in cases which shall hereafter occur, instead of the tax now imposed*, as to require Executors and Administrators to pay to the register for the use of the treasury within thirty days from the return of the inventory, in each case, one per cent. upon the amount of the inventory; and to require that the Executor or Administrator in each case (upon the pre-

sentation of the final account for passage, and before it shall be passed, or his commission allowed,) shall pay to the register for the use of the State, one per cent. upon the difference between the amount of the inventory and the amount upon which the Executor or Administrator is entitled to a commission—the amount of the tax in each case to be deducted from the commission which may be allowed to the Executor or Administrator. Whilst the effect of the amendment suggested would be so salutary to the State, its only effect upon the Executor or Administrator would be to reduce the maximum of commission which could be allowed him by the Orphans' Courts from ten to nine per cent. and the minimum from five to four per cent.

You are aware that whenever an Executor is the residuary legatee, or the residuary legatee consents, and wherever the administrator is entitled to the whole residue, they are authorized, upon giving the bond required by the act of assembly, to take the estate without returning an inventory or account, or in any manner settling with the Orphans' Courts; and in this class of cases the tax imposed by this act can not be collected. I would therefore recommend the repeal of so much of the act of 1798, chapter 101 as confers this privilege.

Permit me in this connection to refer also to the act of 1844, chapter 187, "imposing a tax on the commission of trustees and receivers," for the purpose of remarking that from a statement received from the register in chancery and from the clerks and registers of the several counties showing the amount of commissions allowed for two consecutive years to executors, administrators, trustees and receivers, (assuming the average of those years as the data of calculation the revenue which will accrue; (and if the proposed amendments are adopted) which will be received for the coming year from the two laws will not fall short of $30,000. Permit me also to suggest the enquiry whether this law may not be so amended as to make its proceeds more immediately payable into the treasury. Under the provisions of this law the tax is to be ascertained by the auditor, *when he audits the accounts of the trustee or receiver*, and is to be paid by the trustee or receiver within thirty days after the *final* ratification of the accounts so audited. It is unnecessary to point out the great delay which must occur under the existing provision in the payment of this tax. You are aware that the compensation of trustees and receivers is fixed by a *Chancery scale, graduated* by the *amount of the sale*, or the value of the property where no sales are made. If I am right in this statement, it is clear that the trustee or receiver can immediately after the ratification of the sales made by them, or after the ascertainment of the value of the property, when no sale is to be made, ascertain with as much certainty as the auditor, the amount of their commissions; and I can see no well founded objection to an alteration of this act by which they shall be directed to pay within thirty days after the ratification of the sale or ascertainment of the amount of property where no sale is to be

made, the one-tenth of the commissions to which they are entitled by the *Chancery scale*. This amendment would certainly render this law greatly more available as a revenue measure; and if no well founded objection can be urged to its adoption I would invoke for it your favorable consideration.

I will now call your attention to the act of the last session, chapter 237, "imposing a tax on Collateral Inheritances, Distributive Shares and Legacies." The delay which also occurs under this law in the payment of the tax imposed, and the propriety of adopting such amendments as will render it more practically beneficial as a revenue measure will merit your attentive consideration.

Under its provisions the tax on distributive shares and legacies is required to be paid by the executor or administrator "*before he pays over the distributive share or legacy;*" and in reference to the tax on real estate it makes it the duty of the executors and administrators (without a penalty) to report to the Levy Courts all the real estate of which their testator or intestates have died seized, and the Levy Courts are required on the 1st of June in each year to value the estates, and at the next period of making the county levy, to levy this tax.

I submit it for your consideration, whether the delay incident to the existing provisions of this law would not be removed by an amendment, requiring (in all future cases,) the Orphans' Courts to issue a summons directed to all collateral legatees and distributees of personal estate, and to all collateral devisees and inheritors of real estate, being of full age, and to the guardians of such as are minors, requiring them to pay the tax imposed by this act within three months from the service of such summons, and imposing such penalties upon the adult parties and the guardians of minor parties for their neglect or refusal to pay within the time prescribed as would make it their interest to comply, and consequently ensure their compliance with the law.

I am satisfied that this law can and will be so amended by you, as to make it at once practically efficient as a revenue measure; and then the annual *receipts* from it may be estimated at an average of $10,000.

The act of the last session, chap. 302, "imposing a tax upon clerks and registers," has, I believe, been generally complied with, and the tax, amounting to about $10,000, imposed by it, has been almost entirely received. The like sum may be relied on from this source for the current year.

In reference to the laws of the last session, which have been so far considered, it may be remarked that they have met with the almost universal approval of the people, and your predecessors certainly deserve great credit for the adoption of a *system* of taxation which will so prominently contribute to the relief of the State, and which, at the same time, is so entirely in accordance with the public will.

I should, gentlemen, be wanting in duty to myself, and to your

predecessors, by whom it was passed, if I should omit to refer to the act of the last session, chap. 280, imposing "the Stamp Tax," the only revenue measure adopted by them which has proved unacceptable to any portion of the people in any part of the State. If unmeasured denunciation—through the public press—from the hustings—and in every other shape which the ingenuity of its enemies could devise, could mislead the judgment of an enlightened people in reference to a measure so eminently calculated to promote their *individual interest* and the *public good*, the first act of the session you are about to commence, would be entitled, "An act to repeal the Stamp Tax."

But the representatives of the *people* of *Maryland* may always rely with certain confidence upon the support of their constituents, when, like your predecessors, (after testing the insecurity of the beaten path—the inutility of further laws, based upon the *pre-existing principle of taxation*,) they at once (regardless of unjust censure, and with a proper reliance upon their own judgment, and the judgment of the people,) abandon the path which had hitherto only led to disappointment, and pursue a new course, leading to the redemption of the honor of the State, and the good faith of her citizens.

I ask, gentlemen, I feel I may ask with confidence, your candid consideration of a measure which, when properly amended, will be of more practical utility in the present monetary condition of the State, than any law upon the statute book.

It has been called the *British Stamp Act*, and denounced as *anti-Democratic ;* but I do not propose in addressing *you*, to consider such gratuitous and unfounded denunciations, for I am aware that you are too conversant with the history of your country, not to know that our fathers, in their opposition to the tyrannical impositions of the mother country, were governed by the principle "of resistance to taxation *without representation*," and that *they* opposed the Stamp Tax passed by the British Parliament, *not* because it was a *Stamp Tax*, but because they were unrepresented in the Parliament which passed it. And I might be considered wanting in respect, were I to remind *you* that a similar law to the one now denounced as *anti-Democratic*, was passed by Congress during the Presidential term of Mr. Madison, *by the party vote* of the *then Democratic party*.

I will not, therefore, consider for a moment these mere denunciations against a measure so vitally important to the interest of your constituents ; but will proceed to the consideration of such objections to the principle and policy of the measure, as have been in good faith, and with a belief in their reality, urged against it.

It *was* said that the law was *inconvenient* ; but the practical operation of the measure has clearly evinced the error of this assertion.

It has been urged that the law was unequal in its bearing, *because* the greater portion of the revenue derived from it was paid by the mercantile interest. But this argument was certainly a two edged sword ; for it was apparent, that if the fact were as asserted,

the *mercantile interest* only paid the greater portion of this tax, *because* of *their* ownership of a greater portion of the description of *property taxed*, precisely as the *landed interest* paid a greater portion of the tax upon real estate than the *mercantile interest*, because of their ownership of a larger proportion of that particular description of property. And the owner of *real estate* might as justly claim an exemption from taxation for that description of property, because he paid more than the merchant, as could the merchant from *this tax*, because he received and owned more promissory notes, and consequently paid more than the land holder. The supposed unequal bearing of this law upon a particular class of the community, has constituted the only plausible objection which has been urged against the continuance of the measure. If, therefore, I can demonstrate to the unanswerable satisfaction of every one who will consider the argument, that the inequality which does exist is a *practical inequality in favor* of *those who pay this tax*; I shall expect for this measure the support of all those who now oppose it upon this ground.

The direct tax law of eighteen hundred and forty one imposes a tax of one-fourth of one per cent. upon all the property in the State, and requires the collectors annually to assess all the property which should thereafter come into existence, or be found in the State and not assessed by the assessors appointed by that law. The increase of visible personal property, (such as slaves,) and the increase of real estate, (by the erection of houses,) are under the provisions of the direct tax law brought at once into the assessment, and the owners pay the tax of one-fourth of one per cent. upon it. By the direct tax law, all obligations for the payment of money are taxed at the amount expressed in the obligation, and although every new obligation taken since the act of 1841 should, under its provisions, be assessed, and pay the tax of one-quarter of one per cent.—yet from the nature of the property, and the impossibility of its ascertainment by the collectors, all this description of property which has come into existence since 1841, has escaped the tax imposed by that act, and now only pays under the Stamp Act the *one twentieth* of one per cent., *instead of the one-fourth of* one per cent., *the tax* which is paid by the owners of *every* other description of property which has come into existence since 1841. Sincerely trusting that this view of the subject may change the opinion of some of those who have hitherto opposed the continuance of this law upon the ground of its supposed inequality. I will now ask your consideration of such amendments as experience and the construction placed upon its provisions by the Court of Appeals, have shown to be necessary.

This law went into effect on the tenth of May of the present year, and under its provisions quarterly returns were to be made of the receipts under it, commencing with the first of June. The returns which were made on the 1st of June consequently embrace only twenty days, the entire period for which the law had the been in force, and the receipts for this period will, in my opinion

furnish the data from which a correct estimate may be formed of the revenue which would be derived from this law, if made to embrace all the instruments upon which the law practically operated prior to the decision of the Court of Appeals.

The Treasurer's Report will, I suppose, furnish you the receipts from this law for the first twenty days ending on the 1st of June; and taking this as the basis of calculation, you will see, that the revenue for the entire year from a law embracing the instruments which were for this period practically included in the operations of the law, would exceed the sum of $100,000.

I cannot, in any other way, so succinctly suggest most of the amendments to this law, which, in my judgment, should be adopted, as by referring to the decision of the Court of Appeals, and expressing my conviction, that an amendment which would specifically embrace each and all of the instruments which are decided by the court to be *excluded* by the *phraseology* of the existing law, would receive the almost universal approval of the people, and would double the revenue which is derived from this law as it now stands.

I have received from various sources the suggestion that lottery tickets should be subjected to the provisions of this act. If you can, without danger to the existing revenue which is derived from the lottery system, require that each lottery ticket which shall be hereafter *sold* in this State shall be stamped, and pay ten cents, it would certainly add very much to the revenue which would be derived from this measure, and would, I believe, be applauded by all classes of the community. I am satisfied that no constitutional objection exists to the legislation suggested, unless such an objection may be founded upon the present contract entered into by the Lottery Commissioners of the State, for the drawings of the present year. I have not seen the contract, and have been only informed in reference to it, that it secures to the State for the present fiscal year a sum of $20,000, which is more than double the amount received from this source for the past year. If, upon an examination of the contract, you should be of opinion that the provisions of the Stamp Act could not be extended to the sale of lottery tickets during the continuance of this contract, no constitutional impediment can interpose to prevent the adoption of such a provision, to take effect from and after the 1st of December next, the period at which, I believe, the present contract will expire.

It has been estimated by those *who should be* conversant with the subject, that the number of lottery tickets sold in the State during the past year, exceeded one million. If the number sold would be lessened by reason of the imposition of this tax of ten cents upon each ticket, *a great moral result* (unaccomplished by your predecessors when legislating, especially for that purpose,) will have been attained; and if the number sold would not be diminished by the tax, you would still have *consolation* in the reflection, that by placing one hundred thousand dollars additional revenue in the Treasury, every one whose money has been loaned

to the people of Maryland upon the pledged faith of the State, will for the future be paid according to the spirit and letter of the contract upon which their money was obtained. Gentlemen, I believe that the adoption of the amendments to this law, which have been suggested, (including *such* of the instruments specified in the second section of the law as introduced at the last session, as in your opinion will not occasion public inconvenience,) will supersede the necessity of an increase of the direct tax; and with the legislation indicated in reference to the other revenue measures reviewed in this communication, will secure the annual payment of the sum specified, as necessary to meet the demands upon the treasury.

I cannot pass from the consideration of this law without adverting to one of its provisions, for the purpose of pressing upon your consideration the importance of adopting a similar provision in reference to all the public revenue which is now collected by the clerks of the county courts, and the registers of wills.

By the provisions to which I have reference, the clerks of the County Courts who are made the recipients of this revenue for the State, are required to pay quarterly to the treasurer the amount received by *them;* and their failure to *pay as required*, is declared a misdemeanor in office, and the Executive is required "upon the rendition of a judgment against the delinquent to consider the *office vacant* and appoint some *other* person to fill it." The effect of this provision, whilst it enables the State to rely with certainty upon the payment of the whole revenue, which shall accrue, at the time it does accrue, is equally salutary to the officer, in its preventive influence upon his use of the public funds. Under our revenue system, I believe that fully one half of the State's revenue will hereafter be collected by the clerks and registers, and the adoption of the *same* provision in reference to all the public money received by these officers which is now provided by the stamp act in reference to the money received by the clerks under its provisions, will effectually secure the *punctual payment* of the public revenue *at the periods specified* in the law, which is the great principle sought after in the enactment of such laws.

The report of the Treasurer will exhibit a general improvement in most of the ordinary as well as extraordinary sources of revenue; and he will meet you, (after having paid towards the public debt an amount more than equal to one year's interest,) with a surplus of $199,412 $\frac{1}{100}$ in the Treasury.

Before closing the financial portion of this communication, I cannot forbear expressing to you the high sense I entertain of the merits of this officer. His ability, his untiring energy, and unbending honesty, eminently qualify him for the discharge of the arduous duties of this office at the present critical juncture.

I will now proceed to the consideration of the relations of the State to the various works of internal improvement, with which she is connected, and to which you must look for a portion of the revenue required to meet the demands of the treasury.

I will transmit to you the annual report of the Chesapeake and Ohio Canal Company, and also a supplemental report received from that company, giving a detailed account of their proceedings under the act of the last session, chap. 281, entitled "an act to provide for the completion of the Chesapeake and Ohio Canal to Cumberland, and for other purposes."

Prior to the approval by me of the guarantee, required by the 3rd section of that act, I was furnished by the company, *at my request*, with the written opinion of J. V. L. McMahon, Esq., in regard to the legality of the forms of guarantee which had been adopted by the company and submitted for my approval. The supplemental report will give you full information of the security which was given, and will furnish the evidence of sufficiency upon which my approval was based. This report will also convey to you the gratifying intelligence that since the guarantees were approved, the company have *contracted* for the completion of the canal to Cumberland, for a sum less than that limited by the provisions of this act.

It is certainly a cause of congratulation that this vexed question, which has for years rested as an incubus upon the legislation of the State, may now be considered as settled. In a few years, what is now conjecture will be settled by experience; and the interesting problem to the people of Maryland will be solved, whether the annual interest of $400,000, with which the State is now charged for her expenditure on account of this work, will be met by the profits of the work, or continue a perpetual charge upon the people of the State. In my opinion, the wisdom of the legislation of your immediate predecessors will be vindicated by the result; and the people of will be at least partially relieved from the taxation consequent upon the advances of the State to this work.

There are some, I know, who are opposed to the completion of the canal, upon the ground that a portion of the trade which legitimately belongs to our own commercial emporium, would be thereby withdrawn to the District Cities.

This argument concedes that the canal, when completed, will relieve the State; for *the State being entitled to the entire tolls of the Canal*, it is manifest that any amount of transportation on it, which could operate injuriously to Baltimore, must necessarily yield a corresponding revenue to the State; and the issue which is raised by this argument is, whether the people of the State will submit to perpetual taxation to the amount of $400,000, the annual interest on the investment in the canal, or risk this conjectural injury to the trade of the city of Baltimore. But this view of the question is too narrow, and those who use it, are attempting to raise a question of antagonist interest between the city of Baltimore and the residue of the State, which can be productive of no good, and which may be the occasion of much evil. There is no man in Maryland who can entertain a more *thorough conviction* than I do, that the prosperity of Baltimore is *essential* to the prosperity of the residue of the State, and of the *equal truth* of the converse of the

proposition, that the prosperity of the residue of the State is equally *essential* to the prosperity of Baltimore. I am therefore convinced, that any policy which would paralyze the energies of the one, would operate destructively upon the interest of the other; and it follows that no system of legislation can be right, which looks *exclusively—separately*, to the interest of either.

The people of Maryland when, through their representatives, they entered upon the system of internal improvement, in the prosecution of which the public debt has been incurred, designed to develop the resources of the whole State. The system was not devised—this immense outlay of the public treasure was not designed solely to develop the mineral resources of Allegany, or to afford to the farmers of the upper counties a more accessable or better market, or to throw into the lap of Baltimore the rich products of that fertile region—these were mere incidents of development, the mere consequences of the system—looked to *only as incidents* to the great object of the statesmen who originated this system.

The people, in approving of the system devised, looked beyond the limits of Maryland for the sources of wealth and prosperity which were commensurate with the magnitude of their undertaking.

The Chesapeake and *Ohio* Canal, the Baltimore and *Ohio* Rail Road, the Baltimore and *Susquehanna* Rail Road and the *Susquehanna* and Tide Water Canal were all designed to have their western termini beyond the limits of the State; and Baltimore city was designed as the eastern terminus of all except the last. We *then* looked to the *great west* as the source from which was to come the passengers and trade, that were to remunerate us for the vast outlay required for the completion of this grand system; and we must *now* look to the same source, or abandon the only object which could justify the magnitude of the original design.

In reference to its western terminus, the destiny of the canal may now be considered as fixed; it must for our day and generation continue within the limits of our State; but its eastern terminus will conform to the original design, if there should be any foundation for the apprehension of those who now oppose its western extension.

We must consequently look to the Baltimore and Ohio Rail Road, and its extension to the *Ohio River*, as the *only means* of securing to the State the great advantages which were contemplated from the gigantic scheme, in the prosecution of which the means and credit of the State have been for the time so completely exhausted.

It will be your duty to consider whether you can render any assistance to that company in obtaining from our sister State of Virginia, *a right of way*, that this road may through her territory reach its original destination, the Ohio River. The importance of this extension at this time not only to Virginia and Maryland but also to the country, is greatly increased by the present critical position of the foreign relations of our country.

Since the adjournment of the legislature, the Baltimore and Ohio Rail Road Company have, as authorized by the law of that session, reduced the fare for the transportation of passengers upon the Washington Branch of the road; and I have great pleasure in communicating the fact that this experiment has resulted in giving to the State for the last three months, an increased revenue of $1,279 $\frac{47}{100}$.

During the past fiscal year, the State received from the Baltimore and Ohio Rail Road Company, for the State's one-fifth of the gross receipts for the transportation of passengers on the Washington Branch the sum of $38,699 $\frac{43}{100}$, and for the same period for dividends $48,000, making an aggregate of receipts from this company of $86,699 $\frac{43}{100}$. By law the sum of $34,069 $\frac{36}{100}$ is appropriated from the State's revenue from the road to the free school fund; and the balance $52,630 $\frac{07}{100}$, is applicable to the demands upon the treasury.

I have received and will transmit the annual report of the Baltimore and Susquehanna Rail Road Company. The large investment which the State has in this work will render your attentive supervision of the proceedings of this company a matter of interest to yourselves, and of duty to your constituents. The serious indisposition under which I have suffered since the report was received and my incessant occupation in preparing this communication, have prevented my examining the report with that care which its importance merits.

During the past fiscal year this company has paid to the State the sum of $20,000, and in my opinion you may expect from the same source for the current year a larger sum by at least $5,000.

I have received no communication from the Susquehanna and Tide Water Canal Company, but I have the pleasing intelligence to communicate, that during the past fiscal year this company has paid into the treasury the sum of $74,800 leaving unpaid for its entire liabilities to the State for that period the sum of $9,750. You may I think for the current year rely upon receiving from this company the entire amount of its liabilities for that period.

I am still impressed with the importance of having a Board authorized to supervise the vast interest of the State in her various works of internal improvement; but I will not again press the subject upon the attention of the Legislature.

It is certainly essential to the interest of the State, that *some agent* of the State, should be clothed with the power to control the tariff of tolls established by each company so as to keep them all above the *revenue standard;* and I submit the subject to your consideration as one well worthy of your attention.

It will be necessary that one or more Ware houses should be built in the city of Baltimore for the reception and inspection of tobacco. The inspection has increased during the present year, about twenty thousand hogsheads, and the amount paid by the inspectors for storing the tobacco, which they could not stow in the public Ware

houses, has greatly exceeded the interest on the cost of such buildings as are required. If no untoward event should occur to impede the progressive improvement of the country, the city of Baltimore will, in three years, be the largest tobacco mart in the world; and the number of hogsheads inspected at the State Ware houses in that city will reach one hundred thousand.

I have received and will lay before you the last report of the Directors of the Maryland Penitentiary, which will give you full information of the present situation of that institution; and I particularly invite your attention to the conflict which is supposed to exist between the act of 1836, chapter 156, and the act of 1839, chapter 37, that the proper legislative remedy may be applied. This institution has ceased to be an expense to the State, and I am warranted in expressing the opinion that for the past year it has been as judiciously managed in view of the moral improvement of its inmates as any similar institution in the country.

In reference to this subject, I must ask your examination of the existing criminal law of the State, in regard to the punishment of slaves. By the act of 1809, chapter 138, slaves were punished as other persons, by confinement in the Penitentiary; but by subsequent legislation, and as the law now stands, no slave can be confined in that institution, and in regard to slaves, whipping or transportation is substituted as the punishment for all that class of crimes for the commission of which all other persons are confined in the Penitentiary for periods varying from two to twenty years. If, therefore, under the existing law, a person, *other than a slave*, is convicted of murder in the second degree, or any other crime of like magnitude, such person is punished by confinement in the Penitentiary for a period of not less than ten nor more than twenty years; whilst the slave who is convicted of the like offence can *only* be punished by *transportation*—that is, by substituting for his *Master in Maryland* a *Master residing beyond the limits of Maryland*. The glaring inadequacy of this punishment must render comment unnecessary. In another view this inequality and inadequacy of punishment operate against the slave. From the origin of the government, it has been customary for the Executive where persons are sentenced *to death*, of whose guilt he may entertain doubts, or where palliating circumstances may exist, *to pardon*, *upon condition* of confinement in the Penitentiary for such period as he may designate. It will be seen that the Executive, under the existing law in the case of a *slave*, would be compelled either to order the execution of the sentence of death, or to substitute *transportation*, which would neither be considered by the slave or the community as any punishment whatever.

I have adverted more fully to this subject because I am placed at this time in a peculiar position. At the last term of Charles County Court, a negro slave was convicted of the crime of *insurrection*, and sentenced to be hanged. I at first delayed the execution of the sentence, to see what would be the verdict and sen-

tence in the case of his associates. The greater portion of *the slaves* who were engaged in this outbreak were *without trial* sold by their Masters, and have been taken out of the State; and a free negro indicted with the slave in question, as the leader in this affair, was convicted of a minor grade of the same offence, and has been sentenced to the Penitentiary for the period of *forty years.*

A memorial very numerously and respectably signed has been presented to me, asking a transmutation of the punishment in this case. If I possessed the power to commute the punishment from death to confinement for life in the Penitentiary, I would not hesitate to do so, but the existing law furnishing no alternative between the punishment of death in such a case and an entire exemption from all punishment, I determined to submit the case to your consideration, with the earnest request that you will authorize me to commute the punishment in this case, *with the assent of the convict* from death to confinement *for life* in the Penitentiary.

By resolution No. 54, of December session, 1842, the Governor was directed to distribute to the levy courts of the several counties, *one standard of the several kinds of weights and measures*, which should be received from the United States under the act of Congress of 1836. Under this resolution his Excelleney, Governor Thomas, appointed J. H. Alexander, Esq., the agent of the State to receive the standards from the United States, and to prepare copies of each for distribution. The required number of "*standard yards*" have been completed, and delivered by Mr. Alexander to me for distribution amongst the several counties; and it is due to the agent of the State, that this "*measure of length*" should be inspected by you, that its mechanical finish and accuracy may be appreciated. The construction of the standard copies of the weights and capacity measures, have not been commenced, and cannot be undertaken without further legislation. By the resolution above referred to, the Governor was undoubtedly empowered to appoint *and pay* an agent to prepare the different standards which he is thereby directed to distribute—the appointment of Mr. Alexander was consequently legal, and the expense which has been incurred by him in the prosecution of this work of the State, together with a full and liberal compensation for his services, now constitute *one* of the *obligations* of the State, which she has the ability to discharge, and one which I should have ordered to be paid, if I had possessed the power to do so. The Constitution of the State, as amended by the act of December session, 1843, ch. 339, and confirmed by the act of 1844, ch. 86, "prohibits any money being drawn from the Treasury of the State, but in consequence of appropriations made by law." Under my construction of this clause of the Constitution, I possessed no power to direct the payment to this agent of the State, either of the expense incurred or of the compensation manifestly due to him for his services as agent. I most respectfully submit the entire subject to your consideration, with the request that you will pay for the work so far as it has been executed, and give such specific instructions in reference to the construction of the other

standards contemplated by the resolution of eighteen hundred and forty-two as to you may appear right. I have received from this agent of the State, an able and highly interesting report *on standards of weight and measure*, which I submit for your consideration; and I also submit his account for expenses incurred in the execution of that portion of the work already completed.

I have also received a communication upon the subject from A. D. Bache, Esq., the United States superintendant of weights and measures, informing me "that a large balance, intended for the adjustment of standard weights and capacity measures, to be furnished this State under the act of Congress, is now ready for delivery;" and suggesting the propriety of having a suitable building erected for its reception, and appending a drawing of a small building, which would be appropriate for that purpose. This communication and drawing I also submit as a part of this very interesting subject.

The duty is imposed on me by the acts of 1827, chap. 140, and 1839, chap. 28, to report to you what amount has been expended within the past year, under the provisions of those laws, for the education of the indigent blind, and deaf and dumb. During the period indicated, the sum of $1,244.99 has been paid for the education of the blind, and $1,392.00 for the education of the deaf and dumb.

I have received, and will communicate to you, a very lucid and detailed report of the committee of the legislature, appointed under resolution No. 60 of December session, 1844, "to examine and burn the bonds, certificates or other evidences of indebtedness of the State, as directed by resolution No. 8, of December session, 1840."

This report of the committee contains valuable information upon the important subject of their labors, and will, I am sure, secure from you the consideration it merits.

I have received, and will transmit, various communications from many of our sister States, for each of which I ask your respectful and early consideration.

I cannot conclude this communication without adverting to the present critical position of the relations of our country with Great Britain, resulting from the claims of the two countries to the Oregon Territory.

I do not believe that a war between the two countries can *properly*, or in accordance with the public sentiment of *either* country, arise in the adjustment of this question. I have every confidence that the President of the United States is *sincerely* desirous to preserve *peace*, if *peace* can be maintained consistently with the honor and rights of the country. In my judgment, it would be inconsistent with the wisdom and prudence manifested by our Government, in the precautionary measures taken against Mexico, whereby the peace of the country was preserved in the settlement of the Texas question, and repugnant to the opinion we should entertain of the *capacity of our Government*, to believe that war can *immediately* result from the conflicting opinions or *action* of the two Govern-

ments upon this question. No administration which has ever had the control of the Government, *could stand* against the general indignation which would follow the loss of life and property, consequent upon a war with Great Brirain, entered upon without warning, and without any, the slightest preparation for defence.

No part of the Union would, in the event of war, be more exposed than Maryland; and if you should have less confidence than I have in the wisdom of the Federal Executive, it will be your paramount duty to make some provision for placing our State in a posture of defence.

If you should entertain, upon this momentous subject, an opinion different from mine, the thorough re-organization of the militia system will be imperatively required.

But may not this question be settled without injury to the rights of this, and consistently with the honor of both countries?

If, contrary to our expectations, Great Britain should *finally* reject the very liberal compromise offered by our Government; would it in your judgment be injurious to the rights, or inconsistent with the honor of this country, to agree that this question of *title* should be settled by arbitration?

The diplomatic correspondence upon this question, between Mr. Packenham and Mr. Buchanan, has made a powerful impression upon the public sentiment of the country; and I believe that now the almost universal opinion is entertained in this country, that ours is the *better title* to the *whole territory*. What objection then, can exist, on the part of the Government, or people of this country (who concur in the opinion that our title is well founded) to the submission of this question to the arbitrament of well informed men, the citizens of some other country, who would have no interest in the controversy, and who would be guided solely by the desire to decide the question according to right and justice! Would not the portion of the territory already offered by our government as a compromise, be more than could be assigned to Great Britain by any arbitrators who would be selected? The President in reference to this question, is, I am persuaded, only *anxious to do right;* and to meet the expectations of the country. If then you should concur with me in opinion, that the acceptance by our government of a proposition to arbitrate this question, would not conflict with the rights, or be derogatory to the honor of our country; might not the expression of that opinion, as the sentiment of Maryland, in the contingency of such an offer being made by Great Britain, have some effect upon the counsels of the Nation, and consequent influence in preserving the peace of the country!

In conclusion, permit me to assure you, that entertaining the most implicit confidence in your patriotism and judgment I shall co-operate with you to the utmost of my ability, to promote the welfare of our constituents, and *in peace or war*, to maintain the honor of our State.

THOMAS G. PRATT.

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